

CITY COUNCIL AGENDA

JUNE 17, 2008

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESI, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
8:31 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

10:05 a.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:11 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 6)**
Rabbi Joshua Berkenwald, Congregation Sinai, offered a prayer of encouragement.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved with Items 2.15, 2.22 and 3.2 deferred to 6/24/08 and Item 11.1(f) continued to 8/12/08.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Strong Neighborhoods Initiative Project Advisory Committee for its invaluable civic leadership and community engagement in revitalizing the neighborhoods in San José. (Mayor/Redevelopment Agency)
(Deferred from 6/3/08 – Item 1.7)
Heard in the evening.
Mayor Reed and Redevelopment Agency Executive Director Harry S. Mavrogenes recognized and commended the Strong Neighborhoods Initiative Project Advisory Committee for its important civic leadership in revitalizing the neighborhoods in San José.
- 1.2 Presentation of a commendation to Jose Villanueva Jr. for his outstanding performance with the program “A Great American Litter Pick-Up”. (Cortese)
Dropped.
- 1.3 Presentation to the San José City Council of the 2007 California League Championship Ring for the San José Giants. (Cortese)
Heard in the evening.
The 2007 California League Championship Ring for the San José Giants was presented to Mayor Reed on behalf of the City Council of San José.
- 1.4 Presentation of a proclamation to Cadence Design Systems, Inc. declaring June 19, 2008 as “Cadence Day” in the City of San José in commemoration of its 20th Anniversary as a leading driving industry technology company headquartered in San José. (Mayor)
Mayor Reed recognized June 19, 2008 as “Cadence Day” in the City of San José in commemoration of its 20th anniversary in the City of San José.
- 1.5 Presentation of a proclamation declaring the month of June as “LGBT Month” in the City of San José and presentation of a commendation to the Billy DeFrank LGBT Community Center for its continuing perseverance in developing diverse resources to empower and support the LGBT Community Center and their allies.
(Rules Committee referral 6/11/08)
Mayor Reed and Council Members Nguyen, Oliverio, Chirco and Chu recognized the month of June as “LGBT Month” in the City of San José for continuing to persevere in developing diverse resources to empower and support the LGBT Community Center.
- 1.6 Presentation of a commendation to Flextronics for their presence in San José, support of the local economy and focus on environmental protection. (Mayor/Chu)
(Rules Committee referral 6/11/08)
Mayor Reed, Council Member Chu and Chief Development Officer Paul Krutko recognized and commended Flextronics for their presence in the City of San José in support of the local economy.

1. CEREMONIAL ITEMS

- 1.7 Presentation of a commendation to Frank Schiavo for his passion for educating the public on environmental issues, dedication to environmental stewardship, and for the “greening” of his home. (Nguyen)
(Rules Committee referral 6/11/08)
Mayor Reed and Council Member Nguyen recognized and commended Frank Schiavo for educating the public on environmental issues and for the “greening” of his home.
- 1.8 Presentation of a commendation to Aidan Piceno, Cameron McElroy and Justin Hendryx for their creativity in naming the three falcon chicks. (Mayor)
(Orders of the Day)
Heard in the evening.
Mayor Reed, Council Members Oliverio, Liccardo and Pyle recognized and commended Aidan Piceno, Cameron McElroy and Justin Hendryx for their creativity in naming the three falcon chicks.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of April 8, 2008
 - (b) Regular Minutes of April 15, 2008
 - (c) Joint City Council/San José Housing Authority Minutes of April 8, 2008
- Approved.**

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28314 – Amending Section 3.04.1410 of Chapter 3.04 of Title 3 of the San José Municipal Code to provide that a disciplinary hearing for an employee in a City of San José Peace Officer classification shall be closed to the public unless the employee requests that the hearing be open to the public.

Ordinance No. 28314 adopted.

- (b) ORD. NO. 28317 – Amending Title 6 of the San José Municipal Code by amending Chapter 6.58 and 6.60 to add new sections and amend Section 6.60.200, and adding a new Chapter 6.62, to require promoters to be permitted prior to promoting events in Public Entertainment Venues or Public Dancehall Venues in the City, and require the operators of those venues to use only permitted promoters, and to specify that persons required to be permitted or licensed under the provisions of these chapters, but not so permitted or licensed, are also subject to the provisions of these chapters.

Ordinance No. 28317 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (c) ORD. NO. 28318 – Rezoning certain real property situated on the northwest corner of East Brokaw Road and Oakland Road (1015 East Brokaw Road) to the CN-Commercial Neighborhood Zoning District. C08-029
Ordinance No. 28318 adopted.
- (d) ORD. NO. 28319 – Rezoning certain real property located at the southeast corner of Berryessa Road and Jackson Avenue to A(PD) Planned Development Zoning District. PDC07-033
Ordinance No. 28319 adopted.
- (e) ORD. NO. 28320 – Amending Title 20 of the San José Municipal Code to add Section 20.30.530 to Chapter 20.30 to provide for a height exception for Solar Photovoltaic Power Generation Systems mounted on accessory building or structures, to amend Sections 20.20.100, 20.30.100, 20.30.500, 20.40.100, 20.50.100, 20.70.100, 20.100.500, 20.100.610, and 20.100.1030 of various Chapters of Title 20 of the San José Municipal Code and Section 13.48.210 of Chapter 13.48 of the San José Municipal Code to clarify that a building permit may be issued for the installation of Solar Photovoltaic Power Generation Systems that conform to all of the development standards of the Zoning District in which the system is located, and to amend Section 20.200.1165 of Chapter 20.200 of Title 20 of the San José Municipal Code to amend the definition of Solar Photovoltaic Systems.
Ordinance No. 28320 adopted.
- (f) ORD. NO. 28321 – Amending title 20 of the San José Municipal Code (the Zoning code) to amend Section 20.40.520 of Chapter 20.40 to streamline requirements for outdoor uses in Commercial Zoning district, to amend Section 20.50.100 of Chapter 20.50 to allow Performing Arts Rehearsal Space with a Condition Use Permit in the IP-Industrial Park Zoning District, to apply to “CM” Mixed Industrial Overlay to properties with the Combined Industrial Commercial General Plan Designation, allow additional commercial uses in establishments, streamline permit requirements for Data Centers, and provide for a Tow Yard Use, to amend Section 20.50.115 of Chapter 20.50 to establish requirements for commercial uses associated with Large Format Commercial Establishments, to amend Section 20.50.120 to make additional provision for incidental retail sales in Industrial Zoning District, to amend Section 20.90.060 to reduce parking requirements for Data Centers and performing Arts Rehearsal Space, and to establish parking requirements for Tow Yards and Large Format Commercial Establishments, to add Sections 20.200.265, 20.200.605, and 20.200.1278 to Chapter 20.200 to define Data Centers, Large Format Commercial Establishments and Vehicle Tow Yards, respectively, and to make other clarifying changes.
Ordinance No. 28321 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (g) ORD. NO. 28322 – Rezoning certain real property situated at the southwest corner of Murphy Avenue and Oyama Drive (1254 Murphy Avenue) to A(PD) Planned Development Zoning District. PDC07-088

Ordinance No. 28322 adopted.

2.3 Approval of an Agreement for Airspace and Airfield Analysis Services at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a consultant agreement with Jacobs Consultancy Inc. for airspace and airfield analysis services at the Norman Y. Mineta San José International Airport in an amount not-to-exceed \$200,000 and for the term of July 1, 2008 to June 30, 2011. CEQA: Resolution Nos. 67380 and 71451, File No. PP08-072. (Airport)

Resolution No. 74419 adopted.

2.4 Assistance Modifications to an Agreement for Partial Reimbursement of Airport Funded Police Department Costs.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute Assistance Modifications to the cooperative agreement with the Transportation Security Administration to partially reimburse Airport-funded Police Department costs for four explosive detection canine teams for a total amount not-to-exceed \$200,500 per year at the Norman Y. Mineta San José International Airport and to negotiate and execute Assistance Modifications to the Cooperative Agreement for future years in an annual amount not-to-exceed \$200,500 on the same terms and conditions as the Cooperative Agreement. CEQA: Resolution Nos. 67380 and 71451, File No. PP08-089. (Airport)

Resolution No. 74420 adopted.

2.5 Office of the City Auditor's Report.

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period April 16, 2008 through May 15, 2008*. (City Auditor)

Report Accepted.

2.6 Ordinance implementing an amendment to a retirement benefit for Fire Department members of the Police & Fire Department Retirement Plan.

Recommendation: Approval of an Ordinance amending Section 3.36.1020 of Chapter 3.36 of Title 3 of the San José Municipal Code related to service connected disability benefits for employees of the Fire Department who are members of the Police and Fire Department Retirement Plan. CEQA: Not a Project. (City Manager's Office)

Ordinance No. 28330 passed for publication.

2. CONSENT CALENDAR

2.7 **Ordinance implementing a retirement survivorship benefit enhancement for Fire Department members of the Police & Fire Department Retirement Plan.**

Recommendation: Approval of an Ordinance amending Sections 3.36.1270 and 3.36.1280 of Chapter 3.36 of Title 3 of the San José Municipal Code to revise the benefit formula for certain surviving spouses and surviving domestic partners of members of the Fire Department who are members of the Police and Fire Department Retirement Plan. CEQA: Not a Project. (City Manager's Office)

Ordinance No. 28331 passed for publication.

2.8 **Amendment to an Agreement for the Development and Implementation of the Environmental Enforcement Data Management System.**

Recommendation: Approval of a third amendment to the agreement with enfoTech & Consulting, Inc. to extend the term of agreement by twenty-five months from December 31, 2007 to January 31, 2010 for the development and implementation of the Environmental Enforcement Data Management System at no additional cost to the City. CEQA: Not a Project. (Environmental Services)

Approved.

2.9 **Memorandum of Agreement among Bay Area Cities to Implement a Regional Approach to Obtaining and Allocating Federal Funding for Water Recycling Projects.**

Recommendation: Adoption of a resolution authorizing the City Manager to execute a Memorandum of Agreement among the cities of San José, Mountain View, Palo Alto and Redwood City, Delta Diablo Sanitation District, North Coast Water District, Santa Clara Valley Water District and the Bay Area Clean Water Agencies to implement a regional approach to obtaining and allocating federal funding for water recycling projects, at a cost for FY 2008-09 not-to-exceed \$30,000, with future year funding to be subject to appropriation by Council. CEQA: Not a Project. (Environmental Services)

Resolution No. 74421 adopted.

2.10 **Agreement with the Water District for Cost Sharing for Water Conservation Programs in FY 2008-2009.**

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Water District for cost sharing associated with water conservation programs in FY 2008-2009, under which the City will receive an amount not-to-exceed \$280,000 and the District will receive an amount not-to-exceed \$406,977 for a net cost to the City of \$126,977. CEQA: Not a Project. (Environmental Services)

Resolution No. 74422 adopted.

2. CONSENT CALENDAR

2.11 Report on Bids and Award of Contract for Handrail Replacement and Concrete Repair for Grit Removal Tanks and Dissolved Air Floatation Tank.

Recommendation: Accept the report on bids and award a construction contract for “Handrail Replacement and Concrete Repair for Grit Removal Tanks and Dissolved Air Floatation Tanks” to the low bidder, Ashron Construction and Restoration, Inc., in the amount of \$477,869 and approval of a 15% contingency in the amount of \$72,000. CEQA: Exempt, File No. PP07-248. (Environmental Services)

Approved.

2.12 Library Parcel Tax for Fiscal Year 2008-2009.

Recommendation: Adoption of a resolution increasing the Library Parcel Tax rates for FY 2008-2009 by 2.77% over the FY 2007-2008 rates and approving the placement of the Library Parcel Tax on the FY 2008-2009 Santa Clara County Property Tax Roll. CEQA: Not a Project. (Finance)

Resolution No. 74423 adopted.

2.13 Actions Related to Second Mortgages for Homebuyers at the Tierra Encantada Townhome Development.

Recommendation: Adoption of a resolution approving:

- (a) A rollover of the existing \$400,000 City acquisition loan made to Tierra Encantada Development, LLC, into second mortgages to assist eight moderate-income homebuyers with second mortgages of up to \$50,000 each; and
- (b) An increase of up to \$200,000 in additional funding for this project in order to assist up to four additional moderate-income homebuyers with second mortgages of up to \$50,000 each.

CEQA: Mitigated Negative Declaration, File No. PDC02-029. Council District 5. SNI: Mayfair. (Housing)

Resolution No. 74424 adopted.

2.14 Actions Related to the Willow Glen Woods Affordable Housing Development located on the east side of Evans Lane, north of Curtner Avenue.

Recommendation: Adoption of a resolution:

- (a) Approving the selection of The CORE Companies, or its designated affiliate, as the developer of the for-sale component of the Willow Glen Woods affordable housing development.
- (b) Authorizing the Director of Housing (“the Director”) to enter into an Exclusive Negotiations Agreement and to execute an Amendment to an Option Agreement for the purchase of the property between the City and CORE for the development.

CEQA: Not a Project. Council District 6. (Housing)

Resolution No. 74425 adopted.

2. CONSENT CALENDAR

2.15 Actions related to the Carolyn Norris Park Site.

Recommendation:

- (a) Approval of the Carolyn Norris Park Master Plan Report.
- (b) Approval of a Turnkey Park Agreement with Summerhill Parkwood, LLC to construct turnkey park improvements on the Carolyn Norris Park site and to reimburse Summerhill Parkwood, LLC in an amount not to exceed \$198,328 for park improvements above its Parkland Dedication Obligations on the Carolyn Norris Park site associated with Planned Development Permit PD05-082 and Tentative Map No. PT05-103.
- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund (Fund 375):
 - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$97,000 for Norris Park Turnkey Project Design Review and Inspection
 - (2) Decrease the Reserve: Future PDO/PIO Projects by \$97,000.

CEQA: Exempt, File No. PP07-263. Council District 9. (Parks, Recreation and Neighborhood Services)

Deferred to 6/24/08 per Orders of the Day.

2.16 Los Gatos Creek Trail Reach 5 Master Plan.

Recommendation: Approval of the Los Gatos Creek Trail Reach 5 Master Plan and adoption of a resolution incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP06-112. Council Districts 3 and 6. SNI: Burbank/Del Monte, Delmas Park. (Parks, Recreation and Neighborhood Services)

Resolution No. 74426 adopted.

2.17 Coyote Creek Trail Master Plan.

Recommendation: Approval of the Coyote Creek Trail Master Plan for the reach from Story Road to Lower Silver Creek and adoption of a resolution incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP08-014. SNI: Five Wounds/Brookwood Terrace, 13th Street/University, Spartan Keyes. Council Districts 3 and 4. (Parks, Recreation and Neighborhood Services)

Resolution No. 74427 adopted.

2. CONSENT CALENDAR

2.18 Maintenance District Budget Reports for FY 2008-2009.

Recommendation: Adoption of resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2008-2009 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21 and 22 and levying the assessment therein. CEQA: Exempt, File No. PP08-079. Council Districts 2, 3, 4 and 8. (Public Works)
Resolution Nos. 74428, 74429, 74430, 74431, 74432, 74433, 74434, 74435, 74436, 74437, 74338, 74339 and 74440 adopted.

2.19 Amendment to an Agreement for Cost Estimating Consultant Services to support the Airport Terminal Area Improvement Program.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with Leland Saylor Associates for cost estimating consultant services to support the Airport Terminal Area Improvement Program, increasing the compensation by \$340,000, for a total compensation not-to-exceed \$840,000. CEQA: Resolution Nos. 71451 and 67380, File No. PP08-066. (Public Works/Airport)
Resolution No. 74441 adopted.

2.20 Amendment to an Agreement with the San José Downtown Association as it related to the Downtown Area Shuttle Program.

Recommendation: Approval of an amendment to an existing \$600,000 three-year grant agreement with the San José Downtown Association to coordinate and implement a Downtown Area Shuttle program to be provided by the Santa Clara Valley Transportation Authority, extending the term one year for the period between July 1, 2008 and June 30, 2009 for an amount not-to-exceed \$200,000; bringing the total agreement to an amount not-to-exceed \$800,000. CEQA: Not a Project. Council District 3. (Transportation)
Approved.

2.21 Excused absence for Council Member Constant.

Recommendation: Request for an excused absence for Council Member Constant from the Closed Session and Regular Meeting of the City Council on June 24, 2008 due to Authorized City Business: Federated City Employees' Retirement Services Education Training in San Francisco, CA. (Constant)
(Rules Committee referral 6/4/08)
Excused.

2. CONSENT CALENDAR

2.22 Approval to Donate Five Surplus Brush Patrol Vehicles.

Recommendation: Adoption of a resolution authorizing the Director of Finance to donate five surplus Brush Patrol Vehicles (1988 Ford F350 Cab and Chassis with a Brush Patrol body) with a cumulative estimated value of \$25,000 as follows: one vehicle to the Spring Valley Fire District, a volunteer fire department; two vehicles to San José Search and Rescue, a non-profit organization; one vehicle to Central County Occupational Center, an educational organization; and one surplus Brush Patrol to the Eves Volunteer Fire Department. CEQA: Not a Project. (Finance)

(Deferred from 6/3/08 – Item 2.10 and 6/10/08 – Item 2.11)

Deferred to 6/24/08 per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

City Manager Debra Figone announced the appointment of Jennifer Maguire as Budget Director, beginning June 23, 2008.

3.2 Report of the Rules and Open Government Committee – June 4, 2008

Mayor Reed, Chair

Deferred to 6/24/08 per Orders of the Day.

3.3 Report of the Public Safety, Finance and Strategic Support Committee

Council Member Nguyen, Chair

No Report.

3.4 Statement of Policy and Questions for the Confirmation Process for the Fire Chief.

Recommendation: Adopt a Statement of Policy and City Council Questions related to the confirmation process for the Fire Chief as described in this memo, in compliance with City Charter Section 411.1. CEQA: Not a Project. (City Manager's Office)

Approved, as amended.

3. STRATEGIC SUPPORT SERVICES

3.5 Actions Related to Employer Retirement Contributions.

Recommendation: Approval of an ordinance amending Chapters 3.28 and 3.36 of Title 3 of the San José Municipal Code to:

- (a) Provide the City with the option to make lump sum payments of the City's required fiscal year 2008-09 pension and retiree medical benefits account contributions to the Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System (the "Retirement Plans") on or before August 1, 2008 for the balance of fiscal year 2008-09;
- (b) Provide the City with an annual option, commencing with fiscal year 2009-10, to select the periodic basis on which the City's required contributions will be made in advance to the Retirement Plans;
- (c) Provide for each of the Retirement Plan Boards to establish the amounts of the City's required contributions for the August 2008 lump sum payment and for such alternative periodic basis as the City may select commencing with fiscal year 2009-10, as determined by the Boards' actuaries to be actuarially equivalent to the bi-weekly payments that would otherwise have been required;
- (d) Provide that the City's required contributions to the medical benefits accounts within said Retirement Plans shall be made on the same periodic basis that the City's pension contributions are made; and
- (e) Provide for adjustment of the City's required contributions in the following fiscal year after any lump sum payment is made to reflect any difference in contributions due to a variance between the actual payroll amount for the fiscal year in which the payment was made as compared to the projected payroll amount on which the lump sum payment was calculated.

CEQA: Not a Project. (Finance)

Ordinance No. 28332 passed for publication, with Staff requested to provide an information memorandum summarizing savings achieved.

3.6 Report on RFP and Award of Contract for the Purchase of a Storage Area Network.

Recommendation: Report on Request for Proposal for the purchase of a Storage Area Network (SAN) Solution and adoption of a resolution authorizing the Director of Finance to:

- (a) Negotiate and execute an agreement with Systems Technology Associates of Tustin, CA, for the design, purchase, implementation and first year of maintenance and support of a SAN to house the City's electronic data and provide enterprise backup, fileserver and disaster recovery solutions, for a total amount not-to-exceed \$2,236,336 including all hardware, software, professional services including installation and training, one year of extended maintenance and support, shipping and applicable sales tax.
- (b) Execute change orders not-to-exceed 15% contingency in the amount of \$335,450 to cover any unanticipated changes or requirements related to the initial purchase, design, implementation, and support of the system.
- (c) Exercise four one-year options for ongoing maintenance and support subject to appropriation of funds.

CEQA: Not a Project. (Finance/Information Technology)

Resolution No. 74442 adopted.

3. STRATEGIC SUPPORT SERVICES

3.7 Actions Related to Retiree Healthcare.

Recommendation:

- (a) Acceptance of the staff report on retiree healthcare, including the consultant report and Joint Retirement Board Committee report on Solutions to Retiree Healthcare.
- (b) Direction to staff to collaboratively develop options for a pre-funding plan, ramping up over a multiple year period to full pre-funding of the actuarially determined annual required contribution for retiree healthcare.
- (c) Direction to staff to move forward with total health management and risk reduction strategies through the wellness program.

CEQA: Not a Project. (Human Resources)

Approved.

3.8 Report of the Rules and Open Government Committee – May 21, 2008

Mayor Reed, Chair

Accepted.

3.9 Report of the Rules and Open Government Committee – May 28, 2008

Mayor Reed, Chair

Accepted.

3.10 Agreement to Purchase Office Supplies.

Recommendation: Adoption of a resolution authorizing the Director of Finance to execute:

- (a) An agreement and purchase order for the cooperative purchase of office supplies with Corporate Express through the cooperative contract offered by the National Intergovernmental Purchasing Alliance starting July 1, 2008 until June 30, 2012 in an amount not-to-exceed \$1,200,000 for the initial year of the agreement.
- (b) Amendments to the initial purchase order to adjust the not-to-exceed compensation subject to annual appropriation of funding.
- (c) Execute subsequent annual Purchase Orders subject to annual appropriation of funding.

CEQA: Not a Project. (Finance)

(Deferred from 5/20/08 – Item 3.5, 6/3/08 – Item 3.4 and 6/10/08 – Item 3.8)

Dropped.

3. STRATEGIC SUPPORT SERVICES

3.11 AB1195 (Torricco), Recycling: Used Oil: Incentive Payments.

Recommendation: As recommended by the Rules and Open Government Committee, adopt of position of support for AB1195 (Torricco), Recycling: Used Oil: Incentive Payments. (City Clerk)

[Rules Committee referral 6/11/08 – Item c(1)(a)]

Position of Support for AB1195 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – May 27, 2008 Council Member Pyle, Chair Accepted.

4.2 Discussion and Overview of the Economic Feasibility Analysis Completed as a Part of the City's Inclusionary Housing Study.

Recommendation:

- (a) Provide guidance and feedback to staff at this mid-way point in the review of a potential Citywide Inclusionary Housing Ordinance.

The memorandum from Council Member Liccardo, dated June 6, 2008, was approved, including the following:

- (1) **Direct staff to actively pursue outreach to and communication with the development community as described on Page 2 in the May 6, 2008 Staff memorandum.**
- (2) **Return in Fall 2008 with an inclusionary housing proposal for Council approval that contains a range of alternatives, but which include the following elements at a minimum:**
 - (a) **Expands inclusionary obligations beyond redevelopment areas.**
 - (b) **Contains a "pressure-release valve" mechanism to adjust the inclusionary percentage downward during periods of below-average housing starts.**
 - (c) **Protects projects in "the pipeline" from retroactive application of inclusionary obligations, with a range of alternatives on how to define the pipeline.**
 - (d) **Allows for sufficient flexibility for developers in satisfying their inclusionary obligation, including but not limited to:**
 - (1) **Allowing the developer to determine which units within a development will be designated below-market-rate.**
 - (2) **Allowing the construction of units off-site.**
 - (3) **Permitting the payment of fees or contribution of equivalent land in lieu of building the affordable unit.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Discussion and Overview of the Economic Feasibility Analysis Completed as a Part of the City's Inclusionary Housing Study (Cont'd.)

- (a) (2) (d) (4) **Credit-trading among developers, and/or any of the incentives and off-sets described on Page 4 of the May 6, 2008 Staff memorandum;**
- (e) **Contains reduced "in-lieu fees" or waived requirements for housing types having uniquely low profit margins.**
- (f) **Determines the percentage of inclusionary units to be required by this policy which will not exceed 20% for any area of the City.**
- (g) **Offers alternatives for "phasing" in any new requirements over time.**
- (3) **Since many of these issues require substantial discussion of nuanced details of policies, the City Manager and Redevelopment Agency Director were further directed to engage in a series of interviews with members of the development community concerning the costs, benefits, and impacts of variations of elements in the above recommendation and other relevant elements.**
- (4) **Provide a status report for City Council review on:**
 - (a) **Existing City and Redevelopment policies and programs and how the affordable housing policy goals have been met over the years.**
 - (b) **The results of the Redevelopment 20% housing program, including the number of units achieved citywide and in project areas over the past two decades, and the number envisioned to be built citywide and in redevelopment areas in the foreseeable future.**
 - (c) **Opportunities and alternatives to increase the supply of affordable housing in San José as identified by the development community.**

Noes: Constant, Cortese, Oliverio, Pyle.

- (b) **Accept the Economic Feasibility Analysis Study completed by David Paul Rosen and Associates related to Citywide Inclusionary Housing in the City of San José.**

CEQA: Not a Project. (Housing)

(Deferred from 5/20/08 – Item 4.4 and 6/3/08 – Item 4.5)

Report Received.

Noes: Constant, Cortese, Oliverio, Pyle.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Actions Related to the Special Tenant Improvement and Industrial Tool Installation Programs.

Recommendation: Acceptance of Report on making the Special Tenant Improvement Industrial Tool Installation programs permanent with certain modifications. CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)
(Deferred from 6/10/08 – Item 4.3)

Accepted.

Staff requested to report back to the Community and Economic Development Committee in 6 to 9 months.

4.4 Public Hearing on the Reorganization/Annexation of Territory Designated as Burbank No. 40.

Recommendation: Conduct a public hearing and adoption of a resolution ordering the reorganization of territory designated as Burbank No. 40, which involves the annexation to the City of San José of approximately 2.78 acres of land located at the northwest corner of West San Carlos Street and Brooklyn Avenue and public right-of-way along West San Carlos Street, Brooklyn Avenue, and Topeka Avenue, and the detachment of the same from the appropriate special districts, including Central Fire Protection, Area No. 01 (Library Services) County Service, Burbank Sanitary and County Lighting County Services. CEQA: EIR Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Deferred to 6/24/08 per Administration.

4.5 Actions related to the design and installation of Public Artwork at Happy Hollow Park and Zoo.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Tom Otterness to design, fabricate and install public artwork for the Happy Hollow Park and Zoo in a total amount not-to-exceed \$932,500. CEQA: Exempt, File No. PP05-184. (Economic Development)
(Deferred from 6/3/08 – Item 2.8 and 6/10/08 – Item 4.4)

Deferred to 6/24/08 per Administration.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Council Member Chirco, Chair No Report.

5. NEIGHBORHOOD SERVICES

5.2 Actions related to Library Internet Access and Computer Use Policy.

Recommendation:

- (a) Consideration of the proposal by Council Member Pete Constant to change the current Library Internet Access and Computer Use Policy, which now provides open access to the Internet, to one that filters Internet access to reduce the viewing of pornography on library computers.
- (b) If City Council decides to change the current policy, that Council provides specific direction to staff to develop and bring to Council for approval a new policy, based on the policy options or variations thereof as outlined in the report.

CEQA: Not a Project. (Library)

Dropped to be renoticed.

5.3 Report on Bids and Action Related to Bascom Library and Community Center Project.

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the Bascom Library and Community Center Project. CEQA: Exempt, File No. PP07-081. Council District 6. SNI: Burbank/Del Monte. (Parks, Recreation and Neighborhood Services/Library/Public Works)
(Deferred from 6/10/08 – Item 5.3)

Deferred to 6/24/08 per Administration.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – June 2, 2008 Council Member Williams, Chair Accepted.

6. TRANSPORTATION & AVIATION SERVICES

6.2 Proposed Revisions to Council Policy 5-6, Traffic Calming for Residential Neighborhoods.

Recommendation:

- (a) Adoption of a resolution approving the revised Council Policy 5-6, Traffic Calming Policy for Residential Neighborhoods, and;
Resolution No. 74443 adopted.
- (b) Direction to staff to report back to Transportation and Environment Committee in the Fall of 2009 with a status report on the effectiveness of implementing the updated policy.

[Transportation and Environment Committee 6/2/08 – Item (g)]

Approved.

Staff requested to:

- (1) **Report back to the Transportation and Environmental Committee in October or November 2008 on the status of implementation.**
- (2) **Revise the Traffic Calming Toolkit to include options, costs and ancillary benefits by December and share with the public.**
- (3) **Issue an information memorandum describing the City's traffic calming efforts and share it with Council Offices, the public, neighborhood associations, schools, the County, Caltrans, special districts and agencies.**

6.3 Amendment to an agreement with Hensel Phelps for the Airport Terminal Improvement Program.

Recommendation:

- (a) Approval of the third amendment to the contract with Hensel Phelps Construction Company (Hensel Phelps) for design and construction of the Airport Terminal Area Improvement Program to increase the maximum not-to-exceed contract compensation by \$27,933,000, from \$664,177,382 to \$692,110,382;
- (b) Allow for the release of retention for structural steel for Terminal B prior to 50% completion of the project element; and
- (c) Authorize the City Manager to increase the estimated premium and estimated loss reserves in the City's current Owner Controlled Insurance Program for the Airport's Master Plan projects with American International Group from \$25,000,000 to a total amount not-to-exceed \$26,000,000.

CEQA: Resolution Nos. 67380 and 71451, File No. PP08-099. (Airport/Public Works)

Approved.

6. TRANSPORTATION & AVIATION SERVICES

6.4 Report on Bids and Award of Contract for the Street Resurfacing 2008 Backlog Reduction Project.

Recommendation:

- (a) Approval to reject all bids received on April 17, 2008 for the Street Resurfacing 2008 Backlog Reduction Project.

Rejection of all bids approved.

- (b) Accept the report on bids received on May 27, 2008 for the Street Resurfacing 2008 Backlog Reduction Project and award of contract to the low bidder, Top Grade Construction, Inc. in the amount of \$7,985,708 and approval of a five percent (5%) contingency in the amount of \$400,000.

CEQA: Exempt, File No. PP06-066. (Transportation)

Approved, with Staff requested to provide an information memorandum regarding the equity of funds being spent in District 8.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Sewer Service and Use Charge Rates and Storm Sewer Service Charge Rates for FY2008-09.

Recommendation: Adoption of a resolution setting the Sanitary Sewer Service and Use Charges and the Storm Sewer Service Charges for FY 2008-09

- (a) Sanitary Sewer Service and Use Charge rates:
- | | | |
|-----|---|------------------------|
| (1) | Single-Family Residential | \$27.09/Month |
| (2) | Multi-Family Residential | \$15.42 Per Unit/Month |
| (3) | Mobile Home | \$15.47 Per Unit/Month |
| (4) | Non-monitored commercial and industrial | See Attachment A |
| (5) | Monitored industrial | See Attachment A |
- (b) Storm Sewer Service Charge rates:
- | | | |
|-----|---|-----------------------|
| (1) | Single-Family Residential and Duplex | \$5.88/Month |
| (2) | Mobile Home | \$2.95 Per Unit/Month |
| (3) | Large Multi-Family Residential
(5 or more units) | \$3.22/Month |
| (4) | Residential Condominium | \$3.22 Per Unit/Month |
| (5) | Small Multi-Family Residential
(3-4 units) | \$11.17/Month |
| (6) | Commercial, institutional and industrial | See Attachment B |

CEQA: Not a Project. (Environmental Services)

Resolution No. 74446 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Municipal Water System Water Rate Increases for FY 2008-2009.

Recommendation: Adoption of a resolution increasing the San José Municipal Water System potable water rates and charges by 8.8% effective July 1, 2008. CEQA: Not a Project. Council Districts 2, 4, 7 and 8. (Environmental Services)

Resolution No. 74447 adopted.

Noes: Campos, Chu, Cortese, Liccardo, Pyle.

7.3 Wholesale Recycled Water Rate Discount Reductions.

Recommendation: Adoption of a resolution setting wholesale recycled water rate discounts over a three year period for landscape irrigation of \$145 per acre-foot (2008-09), \$125 per acre-foot (2009-10), and to \$105 per acre-foot (2010-11) and setting a discount over a one year period of \$345 per acre-foot (2008-09) for recycled water used for industrial and agricultural use. CEQA: Not a Project. (Environmental Services)

Heard after Item 9.1.

Resolution No. 74448 adopted.

7.4 Approval of a Council Policy titled, "Prohibition of City Funding for Purchase of Single-serving Bottled Water."

Recommendation: Adoption of a resolution adopting a Council Policy titled "Prohibition of City Funding for Purchase of Single-serving Bottled Water."

[Transportation and Environment Committee 6/2/08 – Item (b)]

Resolution No. 74444 adopted, approving Council Policy 1-19, as amended: to include specific language to the policy in situations where there are not reasonable alternatives to bottled water, such as large public events, and when large quantities of water may need to be distributed for health and safety reasons. Noes. Constant.

Staff was directed to refer a suggestion to ban the purchase of canned and bottled soft drinks to the Transportation & Environment Committee.

7.5 Green Cities California Sustainability Resolution.

Recommendation: Approval of a "Green Cities California Sustainability Resolution" expressing San José's commitment to work cooperatively with other California local governments to accelerate local, regional, national, and international efforts to achieve sustainability by:

- (a) Combining forces with other Green Cities California members to influence State and National sustainability policies and legislation.
- (b) Collaborating with other local governments throughout the state and the nation to adopt and implement sustainable policies and practices.

7. ENVIRONMENTAL & UTILITY SERVICES

7.5 Green Cities California Sustainability Resolution (Cont'd.)

- (c) Working to achieve the following objectives for municipal operations:
 - (1) In 2007-08:
 - (a) Purchase of "100% post-consumer recycled" paper for all City operations.
 - (b) Limit the use of City funds for purchase of single serving bottled water.
 - (2) In 2008-2010:
 - (a) A campaign for municipal purchase of local California foods
 - (b) A carbon offset plan for City employee air travel
 - (c) Emission reduction standards for City vehicle fleets

[Transportation and Environment Committee 6/2/08 – Item (c)]

Resolution No. 74455 adopted.

7.6 Approval of the Design and Installation of Airport Recycled Water Infrastructure.

Recommendation: Adoption of a resolution approving the design and installation of recycled water infrastructure at Mineta San José International Airport (SJC) as the near-term preferred alternative rather than using an equal dollar amount to enhance a future solar photovoltaic project. CEQA: Resolution Nos. 67380 and 71451, File No. PP08-071. (Airport)

Resolution No. 74456 adopted.

Noes: Williams.

7.7 Consultant Master Agreements for Various Electrical Capital Improvement Projects at the Water Pollution Control Plant.

Recommendation: Approval of consultant master agreements with the following firms for various electrical capital improvement projects at the San José/Santa Clara Water Pollution Control Plant for a term commencing upon approval of the agreement and continuing through June 30, 2013, for the amounts stated below, and provisions in the agreements to allow the City to increase the amounts payable in such amounts as may be approved by Council:

- (a) Winzler & Kelly in an amount not-to-exceed \$1.5 million.
- (b) Camp Dresser & McKee in an amount not-to-exceed \$1.5 million.
- (c) Black & Veatch in an amount not-to-exceed \$1.5 million.

CEQA: Not a Project. (Environmental Services)

Approved.

8. PUBLIC SAFETY SERVICES

8.1 Report on the Impact of Cardroom Gambling on Crime in San José.

Recommendation: Acceptance of the report related to the Impact of Cardroom Gambling on Crime in the City of San José for the period of July 1, 2006 to June 30, 2007. CEQA: Not a Project. (Police)

Report Accepted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Mayor's 2008 June Budget Message.

Recommendation:

- (a) Review, Discussion and Approval of the Mayor's 2008 June Budget Message
The Mayor's 2008 Budget Message was approved, with the addition of:
- (1) **Proceeds from the sale of 410 Park Avenue to be designated for traffic calming improvements.**
 - (2) **Rebudget \$32,500 to the Office of the Independent Police Auditor to continue funding the Office Specialist position through December 2008.**
 - (3) **Incorporate Council Members Campos and Williams' proposal to add five more police officers into the Mayor's proposal for adding 100 officers by looking at subsidies and assets; and bring it back at mid-year.**
 - (4) **Refer to the City Manager for more study the proposal by Council Members Campos and Williams to shut off ten percent of streetlights in arterials and industrial areas; and bring it back at mid-year.**

Noes: Oliverio.

- (b) Adoption of a resolution by the City Council authorizing the City Manager to negotiate and execute grant agreements addressed in the Mayor's Budget Message which are for amounts that exceed the City Manager's contract authority.

(Mayor)

Resolution No. 74445 adopted.

Noes: Oliverio.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 FY 2008-2009 Operating and Capital Budgets for the City of San José and Redevelopment Agency and Schedule of Fees and Charges.

Recommendation:

- (a) Adoption of a resolution by the City Council approving the Operating Budget for Fiscal Year 2008-2009 for the City of San José, the Capital Budget for Fiscal Year 2008-2009 for the City of San José, and the Five Year Capital Improvement Program for Fiscal Year 2009-2013 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare final documents for adoption.

Resolution Nos. 74449, 74450 and 74451 adopted.

San José Municipal Water System potable water rates and charges by 8.8% effective July 1, 2008. Noes: Cortese.

- (b) Adoption of a resolution by the City Council establishing the Schedule of Fees and Charges for Fiscal Year 2008-2009.

Resolution No. 74452 adopted.

- (c) Adoption of a resolution by the City Council establishing fees and charges for recreational and park activities.

Resolution No. 74453 adopted.

- (d) Adoption of a resolution by the City Council establishing fees and charges for use of City Hall.

CEQA: Not a Project. (City Manager's Office)

Resolution No. 74454 adopted.

- (e) Adoption of resolutions by the Agency Board approving:

(1) Operating Budget for Fiscal Year 2008-2009 for the Redevelopment Agency of the City of San José.

(2) Capital Budget for Fiscal Year 2008-2009 for the Redevelopment Agency of the City of San José.

CEQA: Not a Project. (Redevelopment Agency)

Redevelopment Agency Resolution Nos. 5832 and 5833 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.3 Ordinance and Other Actions Related to Freestanding News Racks within the Downtown Core and Civic Plaza.

Recommendation: Adoption of an urgency ordinance:

- (a) Placing a moratorium of the installation and relocation of freestanding news racks within the Downtown Core and the Civic Plaza Redevelopment Project Area; and,
- (b) Establishing a consolidated pedestal mounted news rack pilot program within the Downtown Core and the Civic Plaza Redevelopment Project Area for a period of July 1, 2008 to June 30, 2010.

CEQA: Resolution No. 72767. Council District 3. (City Manager's Office/ Redevelopment Agency)

Deferred to 8/12/08 per Redevelopment Agency.

- **Open Forum**
None presented.

- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 6:45 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Conduct a public hearing and consider a resolution approving a Conservation Area Amendment to allow a seven-parcel expansion of the current boundaries of the Hanchett and Hester Park Conservation Area to include the following single-family detached residences: 23, 26, 27, 28, 31, 34 and 36 Tillman Avenue Cassandra Ravenscroft, project proponent. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). Council District 6. (Planning, Building and Code Enforcement)
CA08-001 – District 6
(Continued from 6/3/08 – Item 4.9)
Deferred to 6/24/08 per Administration.
- (b) Consideration of an ordinance rezoning the real property located at the northwest corner of Coleman Avenue and Newhall Street (former FMC site) to modify the development standards of the existing Planned Development Zoning District (File No. PDC98-104) to allow 24-hour drive-through uses by right, minor modifications to building setback and height requirements, minor technical or clarifying revisions, and other revisions to address traffic capacity on the southeasterly portion of an approximately 94.8 gross-acre site. The current zoning allows up to 3 million square feet of office/research & development and commercial retail uses (City of San José, Arcadia Development Company, Owner/Applicant). CEQA: EIR Resolution No. 71716 and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
PDC08-017 – District 3
Ordinance No. 28333 passed for publication.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar (Cont'd.)

- (c) Consideration of an ordinance rezoning the real property located at the southeast corner of Vine Street and Floyd Street (1312 Vine Street) from R-2 Residence Zoning District to A(PD) Planned Development Zoning District to allow three new single family residences and one existing single-family residence on a 0.34 gross acre site (Keys Melvin L and Margaret G, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC07-068 – District 3

Ordinance No. 28334 passed for publication.

- (d) Consideration of an ordinance rezoning the real property located on the west side of North 4th Street, approximately 230 feet north of East St. James Street (237 North 4th Street) from CG Commercial General Zoning District to A(PD) Planned Development Zoning District for construction of two live/work units on a 0.08 gross acre site (Zajonc Larry W and Smith-Zajonc Janice A Tr, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC08-018 – District 3

Ordinance No. 28335 passed for publication.

- (e) Consideration of a Planned Development Rezoning and Billboard Height Alteration Agreement for the properties located at the northerly terminus of Industrial Avenue (1605 Industrial Avenue), the east side of Bascom Avenue approximately 180 feet south of Lindaire Avenue (1000 S. Bascom Avenue), the southerly terminus of Junction Court (1750 Junction Court), and the south west corner of Park Avenue and Sonoma Street. (Alvin B. Davidson Trustee & Et Al, Owner/Clear Channel Outdoor, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

- (1) Consideration of an ordinance rezoning from HI Heavy Industrial Zoning District to HI(PD) Planned Development Zoning District to allow relocation of a billboard face from 1000 Bascom Avenue to an existing trucking operation site at 1605 Industrial Avenue.

PDC08-002 – District 4

Ordinance No. 28336 passed for publication.

- (2) Approve a Billboard Height Alteration agreement to require the removal of two existing billboards, located at the south west corner of Park Avenue and Sonoma Street and 1750 Junction Court to allow a dual-faced billboard at 1605 Industrial Avenue to extend up to 50' in height. SNI: Delmas Park. Council District 4 and 6.

Approved.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar (Cont'd.)

- (f) Consideration of an ordinance rezoning the real property located on the southwest corner of San Felipe Road and Aborn Road (3303 San Felipe Road) from CP commercial Pedestrian Zoning District to CN Commercial Neighborhood zoning district to allow commercial uses on a 0.75 gross acre site. CEQA: EIR Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C08-026 – District 8

Continued to 8/12/08 per Orders of the Day.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Planned Development Rezoning for a Master Plan for the Bellarmine College Preparatory Campus.

Recommendation: Consideration of a Planned Development Rezoning for a Master Plan for the Bellarmine College Preparatory Campus. The Project includes demolition of about 47,000 square feet of existing buildings and the new construction of 135,884 square feet resulting in 272,578 square feet (total) on an existing private high school on an approximately 30.05 gross acre site located in the area generally bounded by W. Hedding Street, Caltrain right-of-way, Stockton Avenue, Emory Street and Elm Street (960 W. Hedding Street) (Bellarmine College Preparatory, Owner). CEQA: Mitigated Negative Declaration and Addendum thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval with additional conditions for drop-off areas (6-0-1).

PDC07-072 – District 6

(Continued from 06/03/08– Item 11.6)

Ordinance No. 28337 passed for publication.

11.3 Rezoning real property located on the west side of Lincoln Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of Lincoln Avenue extending from West San Carlos Street to the south and Pacific Avenue to the north, excluding the northwest corner of West San Carlos and Lincoln Avenue to allow the demolition of existing structures and the construction of 39 single-family attached residential and 2 live/work lofts on a 0.91 gross acre site (James & Tina Jean, Owners). SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration.

PDC07-017 – District 6

(Deferred from 4/8/08 – Item 11.7, et al and 5/20/08 – Item 11.3)

Dropped per Applicant.

11.4 Ordinance amending Chapter 20.70, Section 20.70.010, of Title 20 of the San José Municipal Code.

Recommendation: Consideration of an ordinance amending Section 20.70.010 of Chapter 20.70 of Title 20 of the San José Municipal Code to expand the area to which the Downtown Zoning Regulations apply to include the area bounded by Fourth Street, St. John Street, Seventh Street, and San Fernando Street, and to make other related technical or clarifying changes. CEQA: EIR Resolution No. 72767. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

Citywide

(Continued from 05/20/08 – Item 11.5)

Ordinance No. 28338 passed for publication.

11. PUBLIC HEARINGS

11.5 Ordinance approving a Development Agreement Amendment #1 to the Cisco Alviso Development Agreement for the area generally bounded by Highway 237, N. First Street, Grand Boulevard and Disk Drive.

Recommendation: Consideration of an ordinance approving a Development Agreement Amendment to the Cisco Alviso Development Agreement for the area generally bounded by Highway 237, N. First Street, Grand Boulevard, and Disk Drive to amend Ordinance 26136, adopted on June 20, 2000, to extend by six months a certain project occupancy date set forth in a Development Agreement between the City and Cisco Technology, Inc. relative to the development of property in North San José and to ratify and restate the effectiveness of the Development Agreement and authorizing the City Clerk to execute the Amended Development Agreement (Cisco Technologies, Owner/Applicant). CEQA: EIR Resolution No. 69636. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). Development Agreement Amendment #1 to the Cisco Alviso Development Agreement.
District 4

Ordinance No. 28339 passed for publication.

11.6 Rezoning real property located on the southeast corner of River Oaks Parkway and Seeley Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the southeast corner of River Oaks Parkway and Seeley Avenue from IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 777 multi-family attached residences and a 2.58 acre public park on a 14.3 gross acre site (Essex Portfolio, LP, Owner / Essex Property Trust, Inc., Developer). CEQA: EIR Resolution No. 72768 and Addendum thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC06-067 – District 4

Ordinance No. 28340 passed for publication.

11. PUBLIC HEARINGS

11.7 Rezoning real property located on the south side of Murphy Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the south side of Murphy Avenue approximately 400 feet easterly of Oakland Road (1180 Murphy Avenue) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the addition of commercial uses including office, retail, restaurant and warehouse uses within an existing industrial building on a 4.01 gross acre site (Bhupindar S. Dhillon Trustee & Et Al and Satindar Dhillon, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval with conditions for maximum of 100 seats for restaurants, 10:00 p.m. closing time for non-industrial uses, and remove outdoor patio area so no outside dining or use (6-0-1).

PDC07-042 – District 4

Ordinance No. 28341 passed for publication.

The memorandum from Council Member Chu, dated June 17, 2008 was approved, with the following conditions:

- (1) **Staff directed to work with the applicant to minimize warehouse space in order to increase industrial usage and to resolve parking requirement issues by identifying compatible uses.**
- (2) **Decrease the maximum seating for any restaurant tenant to 50 seats.**
- (3) **Limit retail, restaurant and entertainment uses to the hours of 6:00 a.m. to 10:00 p.m.**
- (4) **Retain the existing rear patio and restrict its use for non-restaurant and non-entertainment uses.**

11.8 Zoning real property located on the south side of Douglas Street.

Recommendation: Consideration of an ordinance zoning the real property located on the south side of Douglas Street approximately 200 feet easterly of S. Willard Avenue (1480 Douglas Street) from Unincorporated County to A(PD) Planned Development Zoning District to allow up to 6 attached single-family residences on a 0.43 gross acre site (Basheer Salameh, Owner). SNI: Burbank/ Del Monte. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC07-089 – District 6

Ordinance No. 28342 passed for publication.

11. PUBLIC HEARINGS

11.9 Rezoning real property located on the west side of Lucretia Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of Lucretia Avenue approximately 250 feet south of Bellhurst Avenue from the R-1-8 Residential Zoning District to A(PD) Planned Development Zoning District to allow 10 Single-family attached and detached residences on a 1.0 gross acre site (Faucher Fred L and Constance M, Owner). SNI: Tully/Senter. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-3-0).

PDC06-131 – District 7

Ordinance No. 28343 passed for publication, as amended, without the retention of the existing single family residence, built circa 1918.

11.10 Rezoning real property located at/on the east side of Monterey Road.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the east side of Monterey Road approximately 700 feet northerly of Tully Road (2112 Monterey Road) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to subdivide one parcel into two lots for an existing eating establishment and an existing single-room occupancy (SRO) living unit facility and to add new vehicular parking areas on a 2.88 gross acres site (Emergency Housing Consortium, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1).

PDC08-012 – District 7

Ordinance No. 28344 passed for publication.

- **Open Forum**
 - (1) **Mark Trout expressed religious viewpoints.**

- **Adjournment**

The Council of the City of San José was adjourned at 8:46 p.m.

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9935	East side of DeAnza Blvd, 350 feet North of Sharon Drive	1	Yu Sheng Kao, David Perng, Marvin Liu	5 Lots / 4 Units	SFA, SFD	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10003	NW/C of Hwy. 237 and Gold Street. I, LLC	4	Legacy III SJ America Center	2 Lots / 6 Lots	Mixed Use

- **Notice of City Engineer's Award of Construction Projects**
None.

- **Notice of Contracts Executed by Council Appointees**

In accordance with Municipal Code Section 4.04.080, titled "Quarterly Reports", the following is submitted as a report on contracts executed by Council Appointees or designee during the second quarter of Fiscal Year 2007-2008 (January 1, 2008 – March 31, 2008). The list includes contracts or amendments to contracts for services with a value greater than \$100,000 and up to \$250,000 and contracts or amendments to contracts for equipment, supplies, and material with a value greater than \$100,000 and up to \$1 million. Contract amounts are rounded to the nearest dollar. No Council action is being requested with respect to this report.

City Attorney's Contract Activity

The City Attorney's Office has no contract activity to report.

City Auditor's Contract Activity

The City Auditor's Office has no contract activity to report.

City Clerk's Contract Activity

The City Clerk's Office has no contract activity to report.

- Notice of Contracts Executed by Council Appointees (Cont'd.)

City Manager's (or designee) Contract Activity

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Dance Force	Classes/camps in basic dance, movement, cheerleading, and fitness skills designed for beginner and intermediate levels for residents as offered by the Parks, Recreation, and Neighborhood Services Department.	\$180,000
Fairbanks, Maslin, Maulin & Associates Inc. (FMMA)	Budget Prioritization survey for the City of San José for the City Manager's Office. Second Amendment to the contract to increase contract amount by \$52,500 and modify scope of services and schedule of performance.	\$177,500
ISG Global	Documentation of business processes and implementation of Computerized Maintenance Management System for the Department of Aviation.	\$158,010
James Carter dba Camp Carter International	Classes for sports/fitness, aerobic kickboxing, karate, computer skills, keyboarding, photography, dance, mathematics, language and music classes for residents as offered by the Parks, Recreation, and Neighborhood Services Department.	\$180,000
Mad Doug, Inc. dba Mad Science of the Bay Area Recreation USA	Science camps and classes for children ages 3-12 years of age as offered by the Parks, Recreation, and Neighborhood Services Department.	\$150,000
	Classes for dance, theater, music, sports, language, manner, and financial skills for youth as offered by the Parks, Recreation, and Neighborhood Services Department.	\$180,000
Renee Ramsey dba My First Art Class	Art lessons for parents and their toddlers ranging in age from 10 months to 5 years as offered by the Parks, Recreation, and Neighborhood Services Department.	\$120,000
Sanli Pastore & Hill, Inc.	Appraisal services for the Public Works Department.	\$250,000
Volunteer Center of Silicon Valley	Development and delivery of a disaster sheltering plan and assistance with coordination of disaster preparedness and response efforts for the Office of Emergency Services.	\$192,000

Director of Finance Contract Activity – Services

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Bt Mancini Co., Inc.	Carpeting for Terminal C, Baggage Claim Area for the Aviation Department.	\$108,995
Cuevas Landscaping	Weed Abatement Services for the Department of Transportation.	\$452,000
First Alarm Security & Patrol	Private Security Services for the Aviation Department.	\$340,000

- Notice of Contracts Executed by Council Appointees (Cont'd.)

Director of Finance Contract Activity – Services (Cont'd.)

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Fleet Bodyworks	Body and Paint Repairs for Vehicles for the General Services Department. First amendment of the contract to increase the contract amount by \$30,000.	\$128,000
Flora Terra Landscape Green Team	Landscape Management Services for Maintenance Districts 2 & 3 for the Department of Transportation.	\$370,000
Green Team	Refuse Collection for Airport Facilities.	\$170,000
Green Team	Refuse Collection for Park, Recreation, and Neighborhood Services Department Facilities.	\$246,000
Jack Doheny Rentals, Inc.	Rental of Large Sewer Cleaning Equipment for the Department of Transportation. First Amendment to increase contract amount by \$65,000.	\$215,000
Scheidt & Bachmann, Inc.	Maintenance and Repair of Parking Equipment for the Department of Transportation. First Amendment to the contract to increase the contract amount by \$50,360.	\$150,000
Sheldrake & Mumford	Resurfacing For Basketball and Tennis Courts for the Parks, Recreation, and Neighborhood Services Department.	\$230,000
Testamerica Laboratories, Inc.	Laboratory Services for the Environmental Services Department.	\$150,000

Director of Finance Contract Activity – Equipment, Materials, and Supplies

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Azco	Traffic Signals and Lightpoles for the Department of Transportation. First Amendment to increase contract amount by \$55,000.	\$285,000
Cascade Pump Co.	High Volume Water and Refuse Pumps for the Environmental Services Department.	\$165,081
Hoblitt Motors	Marked Police Patrol Vehicles.	\$329,226
Hollister Honda, Inc.	Police Motorcycles.	\$271,143
Lucid Star, Inc.	Chinese Language Books and Media. First Amendment to increase contract amount by \$20,000.	\$120,000
Maita Chevrolet, Geo & Gmac	Unmarked Police Vehicles.	\$199,819
Netxperts, Inc.	Network and Telecommunications Equipment for the Terminal Area Improvement Project for the Aviation Department.	\$250,000
Netxperts, Inc.	Network Equipment to replace existing legacy equipment for the Aviation Department.	\$434,844

- Notice of Contracts Executed by Council Appointees (Cont'd.)

Director of Finance Contract Activity – Equipment, Materials, and Supplies (Cont'd.)

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Pac Machine Co.	4" Trailer Mounted Pump and Accessories for the Department of Transportation.	\$163,752
Playground Unlimited	Rubber Resilient Surfacing for Playgrounds for the Parks, Recreation, and Neighborhood Services Department.	\$216,000
Sig Sauer Corporation	Pistols for the Police Department.	\$168,203
Teck Cominco American, Inc.	1500 Tons Sulfur Dioxide for the Environmental Services Department.	\$220,000
Toyota Material Handling	39 Passenger Electric Vehicles for General Services.	\$666,072
Toyota Sunnyvale	Five Toyota Prius for General Services.	\$116,694

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 8:07 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

8.1 Approval of a Reimbursement Agreement with CTS Electronic Manufacturing Solutions.

Recommendations:

- (a) Adoption of a resolution by the Redevelopment Agency Board approving a Reimbursement Agreement with CTS Electronic Manufacturing Solutions, Inc., in an amount not to exceed \$500,000, to provide financial assistance for acquisition of capital equipment to be installed in its industrial and manufacturing headquarters facility in the Edenvale Redevelopment Project Area and making certain finding as required by Redevelopment Law.

Redevelopment Agency Resolution No. 5835 adopted.

- (b) Adoption of a resolution by the Redevelopment Agency Board approving an adjustment to the FY 2007-08 Adopted Capital Budget, adding \$500,000 to the Edenvale Emerging Technology Fund project line in the Edenvale Redevelopment Project Area, and amend the FY 2007-2008 Agency appropriations resolution.

Redevelopment Agency Resolution No. 5836 adopted.

- (c) Adoption of a resolution by the City Council directing the City Manager to pursue Employment Training Panel Funds, in an amount up to \$100,000, to support the workforce development efforts of CTS Electronic Manufacturing Solutions.

CEQA: Exempt, File No. SP08-022. [EDENVALE]

Resolution No. 74457 adopted.

8.2 Award of a construction contract for the Fountain Alley Pedestrian Walk and related fiscal actions.

Recommendations:

- (a) Adoption of a resolution by the Agency Board approving the award of a construction contract to Joseph J Albanese, the lowest responsive bidder, in the amount of \$431,000, and authorizing a 15% construction contingency in the amount of \$65,000, for a total construction budget not to exceed \$496,000 for construction of the Fountain Alley Pedestrian Walk; and,

Redevelopment Agency Resolution No. 5837 adopted.

- (b) Adoption of a resolution by the Agency Board approving a proposed adjustment to the Agency's FY 2007-2008 Adopted Capital Budget, shifting \$390,000 from Capital Reserves and amending the FY 2007-2008 Agency appropriations resolution.

Redevelopment Agency Resolution No. 5838 adopted.

8. JOINT REDEVELOPMENT AGENCY ITEM

8.2 Award of a construction contract for the Fountain Alley Pedestrian Walk and related fiscal actions (Cont'd.)

- (c) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of the Fountain Alley Pedestrian Walk Project.

CEQA: Resolution No. 72767 Final EIR entitled, "San Jose Downtown Strategy 2000," and Resolution No. 71039.1 Final EIR entitled, "Mixed-Use Project and Century Center Plan Amendment," File No. PP08-091. **[MERGED]**

Resolution No. 74458 adopted.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 8:11 p.m.